

7 IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 4TH DAY OF JUNE 1998

BEFORE:

THE HON'BLE MR. JUSTICE M.F.SALDANHA

WRIT PETITION NO.15830/1998

BETWEEN:

Sharanappa S/o Narasennagouda
Age: 40 yrs, Occ: Agril. R/o.
Sultanpur, Tq & Dist: Raichur.

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... PETITIONER

(By Sri Basavaraj Karedy, Advocate.,)

A N D:

1. The State of Karnataka by its
Secretary, Revenue Department,
M.S. Building, Bangalore.

2. The Land Tribunal, Deodurga
At: Deodurga, Dist: Raichur.

3. The Tahsildar, Deodurga,
At: Deodurga, Dist: Raichur.

... RESPONDENTS

(By Sri S.V. Jagannath, Addl. Govt. Advocate.,)

Writ Petition filed under Articles 226 and 227
of the Constitution of India, praying to quash vide
Annexure-A, dated 29-10-81 declare the same as
illegal and bad in law etc.,

This Petition coming on for preliminary hearing.
this day, the Court made the following:-

ORDER



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O R D E R

I have heard the petitioner's learned Advocate as also the learned Govt. Advocate. The petitioner's learned Advocate has seriously assailed the impugned order on the ground that the Tribunal has accepted the figure of 87.28 acres as being the holding of the petitioner as indicated by the Special Tahsildar. The petitioner's learned Advocate contends that the computation is incorrect and unfair to the petitioner who has not been given an opportunity to substantiate his plea that the holding is within the ceiling limit. The learned Advocate submits that if the number of family members etc., is looked into, that ^{no} amount of land will have to be surrendered and that the manner in which the case has been disposed of is unfair to the petitioner.

2. The learned Govt. Advocate has pointed out that nothing prevented the petitioner or his representative from adducing material before the Tribunal in the first instance to satisfy the Authority that the holding was within the ceiling limit and he further argues on the basis of the order that obviously, the point regarding family members etc., was never canvassed before the Tribunal and that it cannot be permitted

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to be raised for the first time before the High Court.

3. The order of the Tribunal is a very cryptic order and in a case where substantial acre^a_Lge of land is ordered to be forfeited, to my mind, the party must be afforded the full opportunity of substantiating his plea. On this limited ground, the impugned order is set aside and the case is remanded to the Tribunal for a fresh decision.

4. The Petition accordingly succeeds and stands disposed of. No order as to costs.

5. There is one other aspect of the matter raised by the learned Govt. Advocate namely that the petitioner's earlier application to this Court was dismissed. I have not gone into that aspect of the matter because I have upheld the submission canvassed by the petitioner's learned Advocate that this Court is within its jurisdiction to entertain this petition in the interest of doing substantial justice to the parties.

Sd/-
JUDGE

